

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
STATESVILLE DIVISION

FILED
CHARLOTTE, NC

AUG 01 2019

US DISTRICT COURT
WESTERN DISTRICT OF NC

DOCKET NO.: 5:19cr27-KDB

UNITED STATES OF AMERICA

v.

OSCAR RANGEL-GUTIERREZ

)
)
) SECOND CONSENT ORDER AND
) JUDGEMENT OF FORFEITURE
) PENDING RULE 32.2(c)(2)

BASED UPON the Defendant's plea of guilty and finding that there is a nexus between the property listed below and the offense(s) to which the Defendant has pled guilty and that the Defendant (or any combination of Defendants in this case) has or had a possessory interest or other legal interest in the property, IT IS HEREBY ORDERED THAT:

1. The following property is forfeited to the United States pursuant to 18 U.S.C. § 982, 21 U.S.C. § 853 and/or 28 U.S.C. § 2461(c), provided, however, that forfeiture of specific assets is subject to any and all third party petitions under 21 U.S.C. § 853(n), pending final adjudication herein:

A forfeiture money judgment in the amount of \$750,000. Defendant stipulates that the Government may satisfy the money judgment via forfeiture of proceeds and/or substitute property as defined in 21 U.S.C. § 853(p). For purposes of forfeiture under Section 853(p), Defendant stipulates that, as a result of acts or omissions of Defendant, one or more provisions of Section 853(p)(1)(A)-(E) are satisfied;

\$20,000 in funds delivered by Maria and Benjamin Diaz to the United States and forfeited herein as a substitute *res* for the real property at 226 Maple Creek Drive, Statesville, North Carolina, more particularly described in a Warranty Deed to Oscar M. Rangel-Gutierrez and Maria M. Diaz, recorded on August 10, 2018 at the Iredell County Register of Deeds, Book 2571, Page 1489;

One 2019 Dodge Ram pickup truck, VIN No. 1C6SRFKT1KN622242, titled to Maria M. Diaz;

One 2016 Cadillac Escalade, VIN No. 1GYS4KKJ7GR148208, titled to Maria M. Diaz;

One 2018 Ford F-150 Super Crew pick-up truck, VIN No. 1FTEW1EB1JFA55656, titled to Maria M. Diaz;

One 2016 Ford Transit 350 XLT van, VIN No. 1FBZX2ZMXGKA65056, titled to Maria M. Diaz.

2. The United States Marshals Service, the investigative agency, and/or the agency contractor is authorized to take possession and maintain custody of the above specific asset(s).

3. If and to the extent required by Fed. R. Crim. P. 32.2(b)(6), 21 U.S.C. § 853(n), and/or other applicable law, the United States shall publish notice and provide direct written notice of forfeiture.

4. A forfeiture money judgment shall be included in the defendant's sentence, and the United States may take steps to collect the judgment from any property of the defendant, provided, the value of any forfeited specific assets shall be credited toward satisfaction of this money judgment upon liquidation

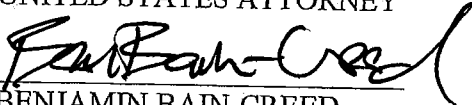
5. Any person, other than the Defendant, asserting any legal interest in the property may, within thirty days of the publication of notice or the receipt of notice, whichever is earlier, petition the court for a hearing to adjudicate the validity of the alleged interest.

6. Pursuant to Fed. R. Crim. P. 32.2(b)(3), upon entry of this order, the United States Attorney's Office is authorized to conduct any discovery needed to identify, locate, or dispose of the property, including depositions, interrogatories, and request for production of documents, and to issue subpoenas pursuant to Fed. R. Civ. P. 45.

7. As to any specific assets, following the Court's disposition of all timely petitions, a final order of forfeiture shall be entered. If no third party files a timely petition, this order shall become the final order of forfeiture, as provided by Fed. R. Crim. P. 32.2(c)(2), and the United States shall have clear title to the property, and shall dispose of the property according to law.


The parties stipulate and agree that the aforementioned asset(s) constitute property derived from or traceable to proceeds of Defendant's crime(s) herein or property used in any manner to facilitate the commission of such offense(s) and are therefore subject to forfeiture pursuant to 18 U.S.C. § 982, 21 U.S.C. § 853 and/or 28 U.S.C. § 2461(c). The Defendant hereby waives the requirements of Fed. R. Crim. P. 32.2 and 43(a) regarding notice of the forfeiture in the charging instrument, announcement of the forfeiture at sentencing, and incorporation of the forfeiture in the judgment against Defendant. If the Defendant has previously submitted a claim in response to an administrative forfeiture proceeding regarding any of this property, Defendant hereby withdraws that claim. If Defendant has not previously submitted such a claim, Defendant hereby waives all right to do so. As to any firearms listed above and/or in the charging instrument, Defendant consents to destruction by federal, state, or local law enforcement authorities upon such legal process as they, in their sole discretion deem to be legally sufficient, and waives any and all right to further notice of such process or such destruction.

WILLIAM STETZER¹
UNITED STATES ATTORNEY

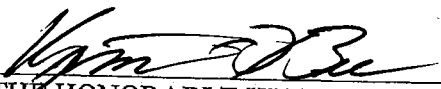

BENJAMIN BAIN-CREED

Assistant United States Attorney


OSCAR RANGEL-GUTIERREZ
Defendant


ROB HEROY, ESQ.
Attorney for Defendant

Signed this the 1 day of August, 2019.


THE HONORABLE KENNETH D. BELL
UNITED STATES DISTRICT JUDGE

In exchange for the Government's agreement to forego forfeiture of the real property at 226 Maple Creek Drive, Statesville, North Carolina, Maria Diaz, spouse of Defendant and title owner of some of the properties identified herein, and Benjamin Diaz, brother-in-law of Defendant and title owner of some of the properties identified herein and in the first Consent Order (Doc. 20) issued by the Court in this case, herein waive any and all interest in the properties identified herein and in the first Consent Order (Doc. 20), withdraw any and all administrative claims to such properties, and consent to forfeiture of the properties in an administrative or judicial proceeding.

Maria Diaz

Date

Benjamin Diaz

Date

S. Frederick Winiker, Esq.
Attorney for Maria and Benjamin Diaz

Date

¹ Acting under authority conferred by 28 U.S.C. § 515.

WILLIAM STETZER¹
UNITED STATES ATTORNEY

BENJAMIN BAIN-CREED
Assistant United States Attorney

OSCAR RANGEL-GUTIERREZ
Defendant

ROB HERROY, ESQ.
Attorney for Defendant

Signed this the __ day of _____, 2019.

THE HONORABLE KENNETH D. BELL
UNITED STATES DISTRICT JUDGE

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Maria Diaz
Maria Diaz

7.29.19
Date

Benjamin Diaz
Benjamin Diaz

7/29/19
Date

S. Frederick Winiker
S. Frederick Winiker, Esq.
Attorney for Maria and Benjamin Diaz

July 29, 2019
Date

¹ Acting under authority conferred by 28 U.S.C. § 515.